

**立法會**  
***Legislative Council***

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**Panel on Development**

**Meeting on 17 December 2012**

**Background brief on enforcement strategy in relation to  
recent unauthorized building works cases with major public concerns**

**Purpose**

This paper provides background information on the Administration's enforcement strategy in relation to recent unauthorized building works ("UBWs") cases with major public concerns and summarizes the major views and concerns on the subject expressed by the Legislative Council Members.

**Background**

2. Under the Buildings Ordinance ("BO") (Cap. 123), all building works (except a small number of exempted works and those designated as minor works under the Minor Works Control System) require the prior approval and consent of the Building Authority ("BA") before such works may commence. Otherwise, those works are UBWs and subject to enforcement action by the Buildings Department ("BD").

General enforcement strategy against unauthorized building works

3. The Administration has stressed that it always puts the safety of buildings in the first place, and takes a pragmatic stance to handle the issue through prioritization and categorization. BD responds to reports on individual UBWs received from members of the public or the media and deal with cases discovered by the regular patrol teams of the consultant commissioned by the Department. It also conducts large scale

operations and special operations to tackle actionable UBWs<sup>1</sup>. If there are confirmed UBWs after an inspection, BD issues advisory letters to advise the concerned property owner to take action as soon as possible. If the owner is not able to commence the rectification works within the specified period, BD will issue a statutory order requiring the owner to immediately carry out works to rectify the situation. BD will instigate prosecution actions to sanction owners who do not duly observe the statutory orders. Under normal circumstances, BD will not initiate criminal investigation lightly on whether there have been contraventions of the BO.

4. Regarding the UBWs which have not been accorded higher priority for clearance (the "non-actionable" UBWs), BD will, depending on the situation, serve advisory letters or warning notices requesting the owners to remove the UBWs voluntarily. If the owner fails to remove the UBWs specified in the warning notice by the specified date, BD will register the warning notice in the Land Registry (i.e. "imposing an encumbrance").

### **Practice for handling unauthorized building works involving senior Government officials and other public figures**

5. In the middle of last year, there were a spate of media reports on UBWs cases involving senior Government officials and other public figures. In response to the public concern on these cases, BD has formulated and implemented a procedure for handling such cases. Under this procedure, BD will accord priority to carrying out site inspections for cases reported by members of the public or by the media involving senior Government officials and other public figures with the objective of clearing any public concerns as soon as possible. After the site inspection, BD will take appropriate enforcement action in accordance with BO and the prevailing enforcement policy against UBWs.

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<sup>1</sup> Actionable UBWs refer to all UBWs (except minor amenity features) on the exterior of buildings. A summary of BD's internal guidelines on prioritization of "Actionable" UBWs is available at BD's website: [http://www.bd.gov.hk/english/documents/guideline/dev0620cb1-2487-1-AnnexG\\_e.pdf](http://www.bd.gov.hk/english/documents/guideline/dev0620cb1-2487-1-AnnexG_e.pdf).

## **Unauthorized building works found at two properties owned by the Chief Executive**

6. In June this year, there were media reports that possible UBWs had been found in two properties owned by the then Chief Executive ("CE")-elect. The buildings involved were Houses 4 and 5 at Yue Hei Yuen, No. 4 Peel Rise. The occupation permit for the two houses was issued in April 1992.

7. In the afternoon of 20 June 2012, BD received a media enquiry on a structure erected in the garden of House 5. BD subsequently learned from a media report on 21 June 2012 that the case involved the then CE-elect Mr LEUNG Chun-ying. Accordingly, pursuant to the aforementioned procedure for handling cases involving senior Government officials and other public figures, BD accorded priority to the case and deployed its staff to visit the subject premises on 21 June 2012 to carry out site inspections and to make detailed records of the inspection findings.

8. In response to a media report on 22 June 2012 concerning a suspected illegal structure erected in the garden of House 4, BD sent its officers to inspect the premises in the same morning. With the cooperation of the owner, BD staff completed the two inspections, recorded the alleged UBWs and preliminarily checked them against the approved building plans.

## **Concerns expressed by Members**

9. Members have urged CE to give a full, complete and detailed account of the matter and expressed concern on his integrity. Some Members pointed out that according to Article 47 of the Basic Law, CE of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties. They queried whether CE had made a false statement when he criticized election rival Mr Henry TANG during a televised debate over illegal structures at Mr TANG's Kowloon Tong home. Members have also followed up the matter on various fronts in the Council.

## **Council questions**

10. At the Council meeting of 4 July 2012, the Secretary for Development ("SDEV") advised that according to BD's initial assessment

on the two inspections, apart from the structure in the garden of House 5 which was reported by the media on 21 June 2012 and removed before BD's inspection in the same morning, the following UBWs were identified in the two houses --

House 4:

- a covered trellis that was erected in the garden and reported by the media on 22 June 2012;
- a structure erected next to the trellis;
- a metal gate erected at the access road near the house;

House 5:

- the parking space on ground floor was enclosed and a roof cover was erected; and
- the location beneath the parking space and at the garden level was altered into a floor space.

11. SDEV remarked that under the prevailing enforcement policy and according to the BD's initial assessment, with the exception of the metal gate erected at the access road near House 4, all remaining UBWs belong to the "actionable" category. Based on the results of the two inspections, the Administration had issued an advisory letter on 22 June 2012, requiring the owner to rectify the concerned UBWs.

Election petition filed by Members

12. In July 2012, Mr Albert HO and LEUNG Kwok-hung filed an election petition. In their petition, they sought for, inter alia, the relief that Mr LEUNG Chun-ying could not lawfully assume the office of CE because he is not "a person of integrity" within the meaning of Article 47 of the Basic Law of the Hong Kong Special Administrative Region and should be disqualified from acting as CE.

**Statement issued by the Chief Executive**

13. Once the election petition proceedings had commenced, CE refused to make further comments on the matter. It was not until

23 November 2012, after all the relevant legal proceedings had been cleared, when CE issued a statement giving his account of the matter. The full statement and the Annex have been uploaded to the website of CE's Office. ([http://www.ceo.gov.hk/pdf/CE\\_Statement.pdf](http://www.ceo.gov.hk/pdf/CE_Statement.pdf) and <http://www.ceo.gov.hk/pdf/Annexes.pdf>)

14. In his statement, CE remarks that he attaches great importance to the matter and fully understands people's expectations of CE and he has been handling the matter in an open, transparent and serious manner. CE apologizes to the people of Hong Kong for the carelessness in handling, firstly, the purchase of the property 13 years ago and secondly, not realizing sooner the existence of UBWs in his houses. But he points out that he did apply in the years 1999 and 2000 for alterations and additions to the two houses. There are about six additions and alterations to his property, of which one or two are actually quite minor. There is no question of him not following the rules or contravening the Building Regulations.

#### **Handling of the matter by the Administration**

15. After CE issued the statement on 23 November 2012, queries have been raised as to why the Administration had not disclosed the UBWs on the lower ground floor of House 4 which were found during the site inspection conducted by BD in June 2012 and whether BD has taken law enforcement actions in accordance with the existing policy.

16. In its press release issued on 27 November 2012 (at **Appendix I**), BD advised that in response to media reports on 26 June 2012 concerning a suspected "unauthorized servant's room" on the lower ground floor of House 4, BD staff had inspected the lower ground floor of House 4 on the same day. As mentioned in the department's reply to the media on June 28, no suspected "unauthorized servant's room" or other UBWs were identified. After checking the approved building plans, BD staff noted that the original store room had been altered to become a sauna room and a shower room. After assessment, it was confirmed that such alteration works did not involve the structure of the building and thus were exempted building works.

17. According to the aforesaid press release, BD staff noticed that the position of part of the external wall of the original store room on the lower ground floor of House 4 did not match with that shown on the original approved building plans. As such, when responding to media

enquiries, BD had stated that the department would follow up with the Authorized Persons ("AP") appointed by the owner, and that in respect of the UBWs in Houses 4 and 5, the department would continue to analyze the inspection results and the necessary follow-up. Following the established procedures, BD had issued a letter to the owner and his AP on 27 June 2012, requesting information on the construction and purpose of the wall concerned. BD had issued three written reminders thereafter.

18. On 29 November 2012, in response to media criticisms that BD had ceased investigation of the position of the external wall of the original store room on the lower ground floor of House 4, the Director of Buildings stressed that BD would remain impartial when enforcing the relevant regulations against UBWs, irrespective of the identity of the owner of the property concerned. He explained that it was BD's usual practice not to provide details about an on-going investigation, therefore BD had not mentioned the external wall of the store room in June 2012. He said that BD would continue to follow up with the AP on the matter. The transcript (Chinese version only) of the replies of the Director of Buildings to the media made on 29 November 2012 is at **Appendix II**.

19. On the same day, after a site inspection at House 4, a BD officer told the media that BD staff had found an unauthorized space of 320 square feet behind the external wall of the original store room on the lower ground floor of House 4. According to media reports, the space was 120 square feet larger than CE had described in paragraph 46 of the statement that he issued on 23 November 2012.

### **Recent developments**

20. In reply to a written question raised by Hon Ronny TONG at the Council meeting of 5 December 2012 about the Administration's handling of UBWs at CE's properties at Peel Rise, the Administration advised that subsequent to the aforesaid site inspection on 29 November 2012, BD had confirmed that the floor space behind the wall was an actionable UBW and issued an advisory letter to the owner on 3 December 2012, advising him to remove the UBW as soon as possible. BD staff would continue to analyze and assess the information obtained in the inspection and follow up with the AP appointed by the owner with a view to determining the necessary enforcement actions. The Administration reiterated that BD took appropriate enforcement actions against UBWs in an impartial manner and would not make any special arrangements for enforcement actions because of the identity of the owner.

21. On 10 December 2012, CE attended a Question and Answer Session of the Council to explain the UBWs at his properties at Peel Rise.

22. Dr Hon KWOK Ka-ki raised an oral question at the Council meeting of 12 December 2012 on the actions taken by SDEV and BD against the UBWs at CE's properties at Peel Rise, including whether the former SDEV had requested CE to open up the external wall of the original store room on the lower ground floor of House 4 in June this year to enable the authorities to investigate, and whether the incumbent SDEV had summoned the key persons involved in the case. The question and the Administration's reply is at **Appendix III**. Members also debated a motion with no legislative effect proposed by Hon WU Chi-wai on a vote of no confidence CE at the same Council meeting. The motion was negatived.

23. The Administration will brief the Panel on Development on the enforcement strategy in relation to the recent UBWs with major public concerns at the meeting to be held on 17 December 2012.

### **Relevant papers**

24. A list of relevant papers with their hyperlinks is at **Appendix IV**.

**Press release of the Buildings Department  
issued on 27 November 2012**

Buildings Department continues to take follow-up action on unauthorised building works at Houses 4 and 5 at No. 4 Peel Rise

In response to media enquiries on the unauthorised building works (UBWs) at Houses 4 and 5 at No. 4 Peel Rise, a spokesman of the Buildings Department (BD) today (November 27) responded as follows:

The BD has all along taken enforcement action against UBWs in accordance with the Buildings Ordinance (BO) and the prevailing enforcement policy, following the principle of acting in accordance with the law and being impartial to all. The BD will accord priority to carry out site inspections for cases reported by members of the public or by the media involving senior government officials and celebrities with the objective of clearing any public concerns as soon as possible. After the site inspection, the BD will take appropriate enforcement action in an impartial manner. The department will not make any special arrangements because of the identity of the owner when carrying out enforcement action.

*BD's follow-up and enforcement action since late June in view of relevant media reports*

After the media reported on June 21 that there were suspected UBWs at the then Chief Executive-elect's premises, the BD immediately acted in accordance with the established procedures for handling cases involving senior government officials and celebrities and sent staff to visit the subject building for inspection and prepared a detailed record of the inspection results. Also, in response to the media report on June 22 concerning UBWs in the garden of House 4, the department sent staff again to inspect the premises on that day. On June 22, the BD gave a public account of the UBWs identified during the site inspections carried out on June 21 and June 22 at Houses 4 and 5 of No. 4 Peel Rise. Based on the results of the two inspections, apart from the glass shelter in the garden of House 5 which had been removed prior to the BD's inspection in the same morning, as reported by the media on June 21, other UBWs were identified by the BD staff in the two premises, as listed below:



A trellis for plants that was erected in the garden of House 4, which was reported by the media on June 22. The trellis had a width of about 6 metres and a depth of about 1m.

UBWs that were not mentioned in the reports by the media on June 21 and 22:

#### House 4

- A structure erected next to the trellis in the garden, with an area of about 2m by 2m and about 2.5m in height; and
- a metal gate erected at the access road near the house.

#### House 5

- The parking space on the ground floor was enclosed and a roof cover was erected; and
- the location beneath the parking space and at the garden level was altered into a floor space with an area of about 6.4m by 3.5m and a height ranging from about 1.7m to 2m.

In accordance with the established procedures, the BD issued an advisory letter to the owner on June 22, advising the owner to rectify the above irregularities as soon as possible. Under the prevailing enforcement policy, UBWs located at the exterior of buildings (in particular those situated on the rooftops or podium flat roofs, or in yards or lanes), except amenity features, are classified as "actionable" items. As such, with the exception of the metal gate at the access road near House 4, all the other four UBWs listed above belong to the "actionable" category requiring priority enforcement. According to the results of inspection carried out by the BD staff on June 26, the trellis concerned and the structure erected next to the trellis at House 4, as well as the glass shelter in the garden and the enclosure and roof cover of the parking space on the ground floor of House 5, had been removed. As the removal works were minor works items under the Minor Works Control System (MWCS), the owner could choose to follow the simplified requirements of the MWCS in carrying out the removal works, without the need to obtain the BD's prior approval of the relevant building plans and consent to commence works pursuant to section 14(1) of the BO. According to the simplified requirements of the MWCS in respect of the relevant minor works items, the prescribed registered contractor appointed by the owner submitted the relevant documents to the BD on June 29; the department finished checking the documents and acknowledged the receipt of the same on July 3.

As regards floor space at the garden level formed beneath the parking space of House 5, the BD had received the remedial proposal submitted by the owner's authorised person (AP) and accepted it on October 30. The department will follow up with the AP on the remedial works.

#### Floor space on lower ground floor of House 4

In response to media reports on June 26 concerning a suspected "unauthorised servant's room" on the lower ground floor of House 4, the BD staff had inspected the lower ground floor of House 4 on the same day. As mentioned in the department's reply to the media on June 28, no suspected "unauthorised servant's room" or other UBWs were identified. After checking the approved building plans, the BD staff noted that the original store room had been altered to a sauna room and a shower room. After assessment, it was confirmed that such alteration works did not involve the structure of the building and thus were exempted building works.

Furthermore, the BD staff noticed that the position of part of the external wall of the original store room did not match with that shown on the original approved building plans. As such, when responding to media enquiries, the BD had stated that the department would follow up with the AP appointed by the owner, and that in respect of the UBWs in Houses 4 and 5 the department would continue to analyse the inspection results and the necessary following-up. Following the established procedures, the BD issued a letter to the owner and his AP on June 27, requesting information on the construction and purpose of the wall concerned. The BD issued three written reminders thereafter. After the site inspection yesterday (November 26) (please refer to below), the department would continue to follow up with the AP on this matter.

#### Storage cabinet in House 5

During the inspection on June 26, the BD staff noticed that the enclosure and roof cover of the parking space on the ground floor at House 5 had been removed. The storage cabinet originally placed in the parking space was thus exposed in open air and became an outdoor structure. After taking the measurements of the storage cabinet, it was confirmed that the storage cabinet was an actionable item for UBWs. The BD staff immediately reminded the AP that the storage cabinet should also be removed.

## Electrical retractable canopy at House 4

As for the enquiry from the media on June 29 concerning an unauthorised electrical retractable canopy erected at House 4, according to the BD's inspection on July 9 the canopy was erected over the master bedroom's doorway towards the flat roof on 1/F of House 4. The canopy was made of a retractable metal frame and canvas materials, and projected from the external wall at the above location. After checking the relevant records, the BD confirmed that the canopy was UBWs.

According to the BD's prevailing enforcement policy against UBWs, the above retractable canopy satisfied the criteria for amenity features as it did not extend more than 2m from the external wall and did not exceed a height of 2.5m from the flat roof level. As it was an amenity feature, not constituting structural danger, nor affecting the structure of the building or obstructing the fire escape routes, the canopy did not fall into the "actionable" category of UBWs. Therefore, the BD did not intend to issue a statutory order to the owner at this stage. However, the BD issued an advisory letter to the owner on July 19, advising him to remove the UBWs or rectify the irregularities.

## BD inspection on November 26

The Chief Executive issued a statement on his property on November 23. The BD staff conducted a site inspection of Houses 4 and 5 together with the owner's AP yesterday afternoon. The aim of the inspection was to follow up and investigate two UBWs mentioned in the relevant statement, including:

- A toilet on the ground floor at the yard of House 4; and
- The floor space on the lower ground floor of House 4.

## Toilet on ground floor in yard of House 4

According to the inspection results yesterday, a roof cover was erected over the open yard on the ground floor of House 4. The space was altered to a toilet. Since the alteration and addition works were carried out without the prior approval and consent of the BD, these works were unauthorised. These UBWs were actionable items under the prevailing enforcement policy. During the inspection, it was noticed that part of the structure had been removed. The department will follow up

#### Floor space on lower ground floor of House 4

According to the inspection results yesterday, the condition of the external wall of the store room on the lower ground floor of House 4 was more or less the same as that revealed in the inspection on June 26. The BD staff immediately requested the AP to arrange for the opening up of that wall as soon as possible for further inspection.

#### *Procedures and principles of BD inspection*

When handling public and media reports involving UBWs, the BD would send staff to conduct site inspection and records checking. The department would take appropriate follow-up action in accordance with the BO and the prevailing enforcement policy. During the inspection, the BD staff mainly aim to confirm whether the suspected UBWs as mentioned in the public or media reports are substantiated. They would not inspect other private areas at will. The BD staff had conducted previous inspections in Houses 4 and 5 in accordance with the above-mentioned procedures and principles.

As regards the alteration and addition works carried out at the above address in 2000, according to the BD's records, the alteration and addition works were approved by the BD. The BD staff conducted site inspection in 2001 upon completion of the alteration and addition works to check if the works had been completed in accordance with the approved building plans. The BD staff had conducted the inspection in accordance with the above-mentioned procedures and principles.

#### *Criminal investigation*

The policy and stance all along adopted by the BD in its enforcement work against UBWs is to require the owner to rectify the irregularities as soon as possible in order to ensure safety. Under normal circumstances, the BD will not initiate criminal investigation lightly on whether there have been contraventions of the BO. The BD will also follow this established principle and stance impartially when determining the required follow-up actions for cases involving senior government officials and celebrities. The identity of the owner is not among the factors considered by the BD as to whether criminal investigation has to be initiated. The BD is now handling the UBWs at the above-mentioned address in accordance with the procedures for UBWs cases in general. The department will also continue to analyse and process the information gathered with a view to determining the necessary follow-up actions.

Ends/Tuesday, November 27, 2012

### **Transcript of the Director of Building's replies to the media on unauthorized building works at Houses 4 and 5 at No. 4 Peel Rise on 29 November 2012 (Chinese version only)**

以下是屋宇署署長區載佳今日（十一月二十九日），就貝璐道4號的4號及5號屋僭建物與傳媒的談話內容：

屋宇署署長：首先多謝各位傳媒，亦辛苦大家連日來在這裏等待。我今日代表屋宇署的同事表達一些不滿。因為就屋宇署處理山頂貝璐道4號的4號及5號屋僭建物這個案，雖然我們以往在回應傳媒的查詢，特別是我們昨日和前日亦回應了傳媒的查詢，講出了我們處理這個案的實情和會採取的行動、會跟進的調查。雖然這樣，但連日來都有對我們同事一些不是基於事實的指控，包括指我們的同事在處理這個案上對業主有包庇，又或是指我們的同事受到高層壓力而停止調查。我覺得這些指控對我們的同事非常不公，所以我在這裏要作一個嚴正聲明，是絕無其事。

屋宇署在處理僭建物和執法工作方面，是由一個經驗非常豐富的專業團隊負責。他們秉著專業精神，基於不偏不倚、依法辦事的精神處理每一個個案，絕對不會因為業主的身份而作特別嚴厲或特別寬鬆的處理。

就山頂貝璐道4號的個案，傳媒最近特別關心的是4號屋地下低層的一幅磚牆。所以我在此要再重申，在六月二十六日看到關於4號屋地下低層懷疑有一個僭建工人房的報導後，我們同事已即日往現場視察。當時的視察見到在地下低層原來的一個士多房內作了些改動，士多房的外牆仍然存在，而牆身亦沒有任何開洞或任何門口可以見到牆身背後的情況，只是見到一幅牆，所以當時的確沒有發現傳媒報導所謂僭建的工人房，但當時同事亦發現牆身某一部份的位置與批准圖則所顯示有出入，所以同事決定，雖然沒有發現僭建工人房，但認為仍需要繼續跟進個案。同事向上級報告事件後，我們在六月二十七日立即發信予業主的專業人士，要求他提供這幅牆的建造、建造目的等資料，以便進一步調查及繼續跟進。我們在六月二十八日回應傳媒查詢時，我們亦有講出這個事實，即當時的確沒有發現僭建工人房，但回應時亦有指出我們會繼續跟進個案，我們亦絕對沒有講過會停止調查。事實已經顯示，我們的同事從來沒有受到壓力要他們不去做一些本來根

據專業判斷、根據法例要求、既定程序的要求而需要做的調查和工作，絕對沒有受到上級的壓力要停止調查。

我們在六月二十八日回應傳媒查詢時，我們沒有提到剛才所講的牆身的問題，因為調查尚未完成，我們還在調查及要求業主的認可人士去提供進一步資料。根據一貫做法，我們不會提供未完成調查工作的細節，所以在回應傳媒時，當時我們並沒有提到牆身的事件。

到上星期五，業主發表聲明，他自己提到牆身後以前其實有一個僭建工人房，只是後來用牆圍封了，事實亦證明了我們六月二十六日視察所見的確是這樣。在他發表聲明後，我們隨即在星期一，即第一個工作天，已經與其專業人士到現場視察。當日的視察亦發現剛才所述的牆身的情況仍然與我們在六月二十六日所見的情況相若，我們已即時要求專業人士安排打開牆身，以便進入裏面，即牆身後面作進一步視察。事實顯示同事在處理這個案時絕對沒有包庇業主的情況，亦從來沒有受到上級的壓力而做一些不應該做的事。

記者：為何...屋宇署沒有要求業主打開牆身？

屋宇署署長：我們在六月二十七日發信予業主的專業人士，要求他提供資料。根據我們一貫類似個案的做法，因為這不是一個有明顯危險的個案，所以我們會給予業主時間去提供資料，讓我們進一步調查後才會決定下一步行動該怎樣做，不會隨便立即要求打開甚麼去做其他的工作。多謝大家。

完

**Oral question raised by Hon Dr KWOK Ka-ki  
at the Legislative Council meeting of 12 December 2012  
and the Administration's reply**

**Handling of unauthorized buildings works**

Question:

On June 21 this year, the media uncovered a number of unauthorised building works (UBWs) in the mansion of the Chief Executive (CE) who was about to assume office. In a written statement issued on November 23 in relation to the issue of UBWs in his mansion, CE disclosed that an extension part of some 200 square feet on the lower ground floor of House 4 of the mansion had been demolished in November last year, and the space in question had been bricked up. He had not made any application or given notification to the Buildings Department (BD) before carrying out such works. In reply to press enquiries, CE said that "his understanding was that an UBWs already dealt with no longer existed". Meanwhile, BD indicated on November 27 that, during a site inspection of the aforesaid mansion on June 26, its staff had found on the lower ground floor of House 4 an external wall which did not match the original building plans, and that on June 27, it had issued a letter to CE and the authorized person (AP) appointed by him, requesting them to provide information about that wall. BD had issued three written reminders thereafter, but no response had been received. In this connection, will the Government inform this Council:

- (a) given that neither CE nor the AP appointed by him had responded to the four letters from BD, whether BD has taken law enforcement actions in accordance with the existing policy; if it has, of the details; if not, the reasons for that;
- (b) during the period from June 21 to 30 this year, whether the former Secretary for Development had summoned the key persons involved in the aforesaid UBWs case, and requested CE to open up the wall to enable the authorities to investigate if there was any extension part behind that wall; whether the incumbent Secretary for Development had summoned such key persons since he took office; if they had not done so, of the specific reasons for that; and

- (c) in accordance with section 14 of the Buildings Ordinance, of the circumstances under which a property owner may carry out the aforesaid works to demolish extension parts and brick up the space in question without obtaining the Building Authority's approval and consent; whether "an UBWs already dealt with no longer existed" is one of those circumstances; whether the Government has received the relevant application from CE since June 21 this year; if it has, of the date of application, details of the processing of the application and the date of approval; if not, whether BD will take law enforcement actions (including instituting prosecutions); if it will, of the details?

Reply:

President,

The Government attaches great importance to building safety. In handling unauthorised building works (UBWs), the Buildings Department (BD) has been following the principle of acting in accordance with the law and being impartial to all to take appropriate actions pursuant to the Buildings Ordinance (Cap. 123) (BO) and the prevailing enforcement policy. In respect of each case involving UBWs, BD will take enforcement actions in an impartial manner, without making any special arrangements for enforcement actions because of the identity of the owner. In gist, BD will not be particularly stringent or lenient in its enforcement actions because the owner is a senior Government official or celebrity.

I would also like to reiterate that both the former Secretary for Development and I are responsible for policy work. Enforcement of the BO falls under the purview of BD. BD staff have been handling each UBW case independently and professionally in accordance with the BO and the prevailing enforcement policy. Both the former Secretary for Development or I did not and will not give any instructions to BD regarding enforcement work in individual cases.

My reply to the three-part question is as follows:

- (a) & (b) In response to media reports on June 26 this year that there might be an "unauthorised servant's room" on the lower ground floor of House 4 at No. 4 Peel Rise (hereunder referred to as "House 4"), BD conducted on-site inspection on the same



day. At that time, BD did not identify any "unauthorised servant's room" or new UBWs, but noticed that the position of part of the external wall of the original store room did not match with that shown on the original approved plan. In accordance with the established practice, on the following day, ie June 27, BD issued a letter to the authorised person (AP) and copied to the owner requesting for information on the construction and purpose of the external wall concerned.

When replying to media enquiries on June 28, BD responded according to the facts that it did not identify any "unauthorised servant's room" or new UBWs during the inspection on June 26. In its reply, BD also pointed out that it was following up with the AP appointed by the owner because while it did not identify any "unauthorised servant's room" as reported, it noticed that the position of part of an external wall did not match with that shown on the original approved plan, and therefore needed to follow up with the AP appointed by the owner. In accordance with the established practice, BD will not announce investigations that have yet to be completed; therefore, in its reply to media enquiries on June 28, it did not mention the above external wall, which was still under investigation.

Further to its letter of June 27 to the owner and AP requesting for information on the construction and purpose of the external wall, BD thereafter issued three written reminders to the AP urging him to provide the information. As according to the inspection on June 26 it was yet to be confirmed whether that external wall was a UBW, and there was no sign of obvious danger, BD, in accordance with the established practice, requested the owner and AP to provide information with a view to determining the necessary follow-up action. This practice was no different from the established practice of BD in handling other cases.

As mentioned above, the Secretary for Development is responsible for policy work, and will not take part in enforcement work in individual cases. BD is the enforcement department for enforcing the BO and enforcement work falls under its purview. Both the former Secretary for Development and I did not summon the concerned owner or the AP appointed by the owner in any cases.

- (c) Different rectification works for UBWs are subject to different requirements under the BO. Some works are exempted works which may be carried out without the need for making application to BD. Some works fall under the scope of the Minor Works Control System. Owners may carry out rectification works through the simplified requirements of the system; depending on the type of works, reports may be submitted to BD after the works have been carried out. Pursuant to section 14(1) of the BO, some works require the prior approval of plans and consent to commencement of works from BD before the works are carried out.

In respect of the floor space on the lower ground floor of House 4, the owner issued a statement on Friday, November 23, which included information on that floor space. BD conducted on-site inspection on the first working day that followed (ie Monday, November 26), and immediately requested the AP appointed by the owner to provide information and arrange for the opening up of that wall as soon as possible for detailed inspection. During BD's subsequent site inspection on November 29, an opening had been made in the wall, and BD staff identified that there was an extended floor space of about 30 square metre behind the wall. After inspection and assessment, BD confirmed that the floor space concerned was an actionable UBW and issued an advisory letter to the owner on December 3, advising him to remove the UBW as soon as possible. The owner and AP are required to submit a remedial proposal in respect of the removal works to BD, and the works may only commence after BD has given its consent. As regards the external wall itself, as it was erected within the area of the lower ground floor of the original building, and did not involve the structure of the building, upon assessment it is confirmed to be an exempted works, which does not require BD's approval before erection. BD staff will continue to analyse and assess the information obtained in the inspection and follow up with the AP appointed by the owner with a view to determining the further enforcement action that should be taken.

Ends/Wednesday, December 12, 2012

## Appendix IV

### Enforcement strategy in relation to recent unauthorized building works cases with major public concerns

#### List of relevant papers

Date of meeting	Committee	Papers/Minutes of meeting
15 March 2012	Panel on Development	Administration's paper on the enforcement strategy in relation to recent unauthorized building works cases with major public concerns [LC Paper No. <a href="#">CB(1)1285/11-12(01)</a> ]  Verbatim transcript of the meeting [ <a href="#">LC Paper No. CB(1)1609/11-12</a> ]
28 June 2012	Panel on Development	Administration's paper on the enforcement strategy in relation to recent unauthorized building works cases with major public concerns [LC Paper No. <a href="#">CB(1)2245/11-12(01)</a> ]  Minutes of the meeting [ <a href="#">LC Paper No. CB(1)2599/11-12</a> ]
4 July 2012	Council meeting	Oral question on unauthorized building works involving the Chief Executive (raised by Hon LEE Wing-tat) [ <a href="#">Hansard</a> , "page 40"]
11 July 2012	Council meeting	Oral question on unauthorized building works involving the Chief Executive (raised by Hon CHEUNG Man-kwong) [ <a href="#">Hansard</a> , "page 65"]

<b>Date of meeting</b>	<b>Committee</b>	<b>Papers/Minutes of meeting</b>
28 November 2012	Council meeting	Written question on handling of unauthorized building works (raised by Hon LEUNG Kwok-hung) <a href="http://www.info.gov.hk/gia/general/201211/28/P201211280302.htm">http://www.info.gov.hk/gia/general/201211/28/P201211280302.htm</a>
5 December 2012	Council meeting	Written question on handling of unauthorized building works (raised by Hon Ronny TONG) <a href="http://www.info.gov.hk/gia/general/201212/05/P201212050401.htm">http://www.info.gov.hk/gia/general/201212/05/P201212050401.htm</a>
12 December 2012	Council meeting	Oral question on handling of unauthorized building works (raised by Dr Hon KWOK Ka-ki) <a href="http://www.info.gov.hk/gia/general/201212/12/P201212120381.htm">http://www.info.gov.hk/gia/general/201212/12/P201212120381.htm</a>